IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH

ENGINEERED ROOF DE-ICING INC. a Utah Limited Liability Company
 	
     Plaintiff,
 	
vs.
 	
VALIN CORPORATION, a California Corporation,
 	
     Defendant.
	Case No.: 2:20-CV-00181-DBB-JCB
	
	SCHEDULING ORDER
	
	Judge: David Barlow
	
	Magistrate Judge: Jared C. Bennett

Pursuant to Fed. R. Civ. P. 16(b), the Court received the Attorney Planning Meeting Report filed by Plaintiff Engineered Roof De-Icing, Inc. ("Engineered") and Defendant Valin Corporation's ("Valin"). The following matters are scheduled. The times and deadlines set forth herein may not be modified without the approval of the Court and on a showing of good cause pursuant to Fed. R. Civ. P. 6.

ALL DEADLINES ARE SET FOR 11:59 P.M. ON THE DATE INDICATED UNLESS EXPRESSLY STATED TO THE CONTRARY

1.		**PRELIMINARY MATTERS/DISCLOSURES**	**DATE**
	a.	Plaintiff's initial disclosures including disclosures pursuant to LPR 2.2	11/16/2020
	b.	Defendant's initial disclosures including disclosures pursuant to LPR 2.2	11/23/2020
		Commencement of fact discovery after initial disclosures LPR 1.3	11/30/2020

c.	Plaintiff serves Initial Infringement Contentions [LPR 2.3]	12/28/2020
d.	Defendant serves Initial Non-Infringement, Unenforceability, and Invalidity Contentions *If no infringement claims,* Plaintiff serves Initial Non-Infringement, Unenforceability, and Invalidity Contentions [LPR 2.4, 2.6]	01/11/2021
e.	Final Infringement Contentions [LPR 3.1]	05/24/2021
f.	Final Unenforceability and Invalidity Contentions [LPR 3.1]	06/07/2021
g.	Final Non- Infringement, [LPR 3.2]	06/21/2021

2.

	DISCOVERY LIMITATIONS	**NUMBER**
a.	Maximum number of depositions[1] by Plaintiff(s)	10
b.	Maximum number of depositions[2] by Defendant(s)	10
c.	Maximum number of hours for each deposition (unless extended by agreement of parties)	7
d.	Maximum interrogatories[3] by any party to any party	25
e.	Maximum requests for admissions by any party to any	Unlimited

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[1] Excluding depositions of experts.

[2] Excluding depositions of experts.

[3] An interrogatory or multiple interrogatories seeking the basis of a party's affirmative defenses, infringement contentions, or invalidity contentions counts as one interrogatory regardless of the number of affirmative defenses alleged or the number of infringed or invalid claims alleged. A party may object to the time of discovery as set forth in LPR 1.7.

party

f.   Maximum requests for production by any party to any   Unlimited
     party

g.   The parties shall handle a claim of privilege or protection as trial preparation
     material asserted after production pursuant to the Court's Standard Protective
     Order.

     The Parties shall handle discovery of electronically stored information as set forth
     in section 2(d) of the parties' Attorney Planning Meeting Report.

                                                                    DATE

h.   Deadline to serve written discovery before claim construction   07/02/2021
     [R. 34]:

i.   Close of fact discovery before claim construction [LPR 1.3(a)]:   08/02/2021

j.   Disclosure of intent to rely on opinions of counsel and   7 Days After
     materials in support [LPR 1.3(c)]:   Claim
                                                                      Construction
                                                                      Order

k.   Deadline to file motion for additional discovery [LPR 1.3(b)]:   14 Days After
                                                                      Claim
                                                                      Construction

3

<u>Order</u>

3.   **AMENDMENT OF PLEADINGS/ADDING PARTIES[4]**   **DATE**

    a.   Last day to file motion to amend pleadings   <u>02/16/2021</u>

    b.   Last day to file motion to add parties   <u>02/16/2021</u>

4.   **CLAIM CONSTRUCTION PROCESS**   **DATE**

    a.   Parties exchange proposed claim terms and claim constructions for construction [LPR 4.1(a)]   <u>07/06/2021</u>

    b.   Reach agreement to submit no more than 10 terms for construction [LPR 4.1(b)]   <u>07/12/2021</u>

    c.   Parties file Cross-Motions for Claim Construction and Joint Appendix [LPR 4.2(a) & (b)]   <u>08/09/2021</u>

    d.   Parties file Simultaneous Responsive Claim Construction Briefs [LPR 4.2(c)]   <u>09/07/2021</u>

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[4] Counsel must still comply with the requirements of Fed. R. Civ. P. 15(a).

e.	Joint Claim Construction Chart & Joint Status Report Due [LPR 4.2(f)]		09/13/2021
f.	Tutorial for Court [LPR 4.4]		09/20/2021
g.	Parties exchange exhibits [LPR 4.3]		09/27/2021
h.	Claim Construction Hearing[5] [LPR 4.3]		TBD

5.	**EXPERT DISCOVERY**		**DATE**
a.	Parties bearing burden of proof [LPR 5.1(b)]		28 Days After Claim Construction Order
b.	Counter reports [LPR 5.1(c)]		56 Days After Claim Construction Order
c.	Close of expert discovery [LPR 5.2]		91 Days After Claim Construction Order

6.	**DISPOSITIVE MOTIONS**		**DATE**
a.	Deadline to file dispositive motions required to be filed with claim construction [LPR 6.2]		08/09/2021

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[5] Parties should contact the Court to set the date for the Claim Construction Hearing.

b.	Deadline to file opposition to dispositive motions filed with claim construction [LPR 6.2]	09/07/2021
c.	Deadline to file reply to dispositive motions filed with claim construction [LPR 6.2]	09/20/2021
d.	Deadline for filing dispositive or potentially dispositive motions [LPR 6.1]	119 Days After Claim Construction Order
e.	Deadline for filing partial or complete motions to exclude expert testimony	119 Days After Claim Construction Order

7.   **SETTLEMENT/ALTERNATIVE DISPUTE RESOLUTION/ OTHER PROCEEDINGS**   **DATE**

a.	Likely to request referral to a Magistrate Judge for settlement conference:	No
b.	Likely to request referral to court-annexed arbitration:	No
c.	Likely to request referral to court-annexed mediation:	No
d.	Last day to seek stay pending reexamination [LPR 3.5]	06/21/2021
e.	The parties will complete private mediation/arbitration by:	NA
f.	Evaluate case for Settlement/ADR on	30 days after the Claim Construction Order
g.	Settlement probability:	Fair

8.   **TRIAL AND PREPARATION FOR TRIAL**   **DATE**

   a.   Plaintiff is directed to file a new scheduling order within 14 days of ruling on claim construction. The Court will set trial deadlines in that order or through a case management conference.

   b.   Trial   <u>Length</u>

       Jury Trial   *<u>3-4 days</u>*

9.   **OTHER MATTERS**

Parties should file all Motions *in Limine* well in advance of the Final Pre Trial.

DATED this 5th day of November 2020.

BY THE COURT:

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Jared C. Bennett
United States Magistrate Judge